

AUG 01 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GILDARDO RAMIREZ-VALERIO,

Defendant - Appellant.

No. 05-30529

D.C. No. CR-05-00104-EJL

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Gildardo Ramirez-Valerio appeals from the 46-month sentence imposed after his guilty-plea conviction for illegal re-entry after deportation in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Ramirez-Valerio's contentions regarding *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), are foreclosed by Ninth Circuit case law. *See United States v. Weiland*, 420 F.3d 1062, 1079 n.16 (9th Cir. 2005) (noting that the court continues to be bound by the Supreme Court's holding in *Almendarez-Torres*); *see also United States v. Velasquez-Reyes*, 427 F.3d 1227, 1229 (9th Cir. 2005) (rejecting contention that the government is required to plead prior convictions in the indictment and prove them to a jury unless the defendant admits the prior convictions); *United States v. Ochoa-Gaytan*, 265 F.3d 837, 845-46 (9th Cir. 2001) (holding that *Apprendi v. New Jersey*, 530 U.S. 466 (2000), carved out an exception for prior convictions that specifically preserved the holding of *Almendarez-Torres*); *United States v. Castillo-Rivera*, 244 F.3d 1020, 1025 (9th Cir. 2001) (rejecting contention that the temporal relationship of the removal to the prior conviction is a fact beyond the scope of the prior-convictions exception); *United States v. Pacheco-Zepeda*, 234 F.3d 411, 414-15 (9th Cir. 2000) (rejecting contention that *Almendarez-Torres* should be "strictly limited" to its specific facts).

Finally, a review of the record convinces us that the district court imposed a reasonable sentence. *See United States v. Plouffe*, 445 F.3d 1126, 1131 (9th Cir.), *cert. denied*, 126 S. Ct. 2314 (2006).

AFFIRMED.